IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1430 OF 2004

IN

SECOND APPEAL NO.714 OF 2003

Shabbir Ahmed Mohammed Hanif .. Applicant

Versus

Abdul Hammeed Moh. Hanif .. Respondent

R.G.Ketkar for applicant

A.N.Mulla for respodnent

CORAM : P.V.KAKADE, J.

DATE : 1ST OCTOBER, 2004.

PC.:

1. Heard both sides. Perused the record.

2. This is an application for Stay of Judgment and Decree dated 11th February 2003 passed by Addl. District Judge, Malegaon in Civil Appeal No.90 of 2001

as also the Judgment and Decree dated 17th February 1998 passed by ld. Civil Judge, Sr. Division, Malegaon in Special Suit No.111 of 1993.

After hearing both sides it is clear that the appeal is admitted as early as in October,2003. However Stay application was not filed for the reasons mentioned. However, perusal of the record shows that impugned decree deserves to be stayed. The Respondent is under apprehension that this order will comes in his way in his independent remedy of his suit. In view of this aspect the application is made absolute in terms of prayer clause (a). However, it is clarified that this order shall not be come in way of independent remedy be pursued if any by the Respondent in any manner.

. C.C. expedited. Appeal expedited.